



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.                                                                                        | FILING DATE | FIRST NAMED INVENTOR        | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------------------------------------------------------------------------|-------------|-----------------------------|---------------------|------------------|
| 10/544,165                                                                                             | 07/29/2005  | Athanassios Tzikas          | 4-22830/A/PT        | 8577             |
| 324 7590 09/29/2010                                                                                    |             |                             |                     |                  |
| BASF Corporation<br>Patent Department<br>500 White Plains Road<br>P.O. Box 2005<br>Tarrytown, NY 10591 |             |                             |                     |                  |
| EXAMINER<br>KHAN, AMINA S                                                                              |             |                             |                     |                  |
| ART UNIT<br>1796                                                                                       |             | PAPER NUMBER                |                     |                  |
| NOTIFICATION DATE<br>09/29/2010                                                                        |             | DELIVERY MODE<br>ELECTRONIC |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

andrea.dececchis@basf.com  
deborah.pinori@basf.com  
sonny.nkansa@basf.com

### Office Action Summary

**Application No.**

10/544,165

**Applicant(s)**

TZIKAS ET AL.

**Examiner**

AMINA KHAN

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/16/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8, 11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 11 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in response to applicant's amendments filed on September 16, 2010.
2. Claims 8,11 and 13 are pending. Claims 1-7,9,10 and 12 have been cancelled. Claim 13 is new. Claims 8 and 11 have been amended.
3. Claims 8 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tzikas et al (US 6,160,101) in view of Tzikas et al (WO 00/06652) for the reasons recited below.
4. The rejection of Claim 8 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/551,319 is withdrawn in view of applicant's amendments to the claims.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8,11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tzikas et al (US 6,160,101) in view of Tzikas et al (WO 00/06652). The Tzikas '652 document is not in English so the English equivalent document, US 6,537,332, is being relied upon for citation purposes.

Tzikas et al '101 teach a reactive dye compositions for dyeing and printing fiber materials containing hydroxyl groups and nitrogen (column 25, lines 31-32) comprising dyes of instantly claimed formula (101) (column 46, lines 45 and lower; compound of formula 102). Tzikas et al '101 teach that such dyes can be obtained as mixtures (column 24, lines 36-42). Tzikas '101 et al. teach applying the compositions in the form of aqueous compositions and printing with them, which meets the limitation of aqueous ink (column 25, lines 45-60).

Tzikas '101 et al do not teach the reactive dyes of formula (102) or (8).

Tzikas et al. '332 teach dyeing and printing hydroxyl or nitrogen containing fiber materials (column 9, lines 10-25) with dyes of instantly claimed formula (102) (columns 23 and 24, formula (107)) and dyes of formula (8) (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the dyes of Tzikas '101 by incorporating the dyes taught by Tzikas '332 because both references are directed towards effectively dyeing similar textiles for the benefits of high degrees of fixing and light/was fastness. It is *prima facie* obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been

individually taught in the prior art. *In re Kerkhoven*, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). See MPEP 2144.06.

### ***Response to Arguments***

7. Applicant's arguments filed regarding Tzikas et al (US 6,160,101) in view of Tzikas et al (WO 00/06652) have been fully considered but they are not persuasive. The applicant argues that the Declaration under Rule 132 filed on June 7, 2010 is sufficient to demonstrate that the claimed dye mixture does more than yield predictable results, specifically improved build-up behavior. The examiner respectfully argues that applicants showing of unexpected results is limited to the dye mixture of the species of dyes of formula (102) and (101) at a single concentration ratio of 78% and 22%, respectively, and is not commensurate in scope with the claims which do not recite a concentration and are therefore directed to all concentrations of the mixture. Since applicant has not limited the instant claims to the concentration range recited, nor has provided unexpected results for additional concentrations, the rejection is maintained.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5 off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Art Unit: 1796

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796

/Amina Khan/  
Examiner, Art Unit 1796  
September 22, 2010